

UNITED STATES DISTRICT COURT
DISTRICT OF CONNECTICUT

SAMMIE GALE GOSS, :
 :
Plaintiff, :
 :
vs. : No. 3:04CV2058(WIG)
 :
DR. NEIL MANDEL, :
 :
Defendant. :
-----X

ORDER OF DISMISSAL

The pro se plaintiff, Sammie Goss, has brought this action against Dr. Neil Mandel, a veterinarian practicing in West Haven, Connecticut, alleging various violations of federal law and state common law causes of action. Pursuant to the Court's authority under 28 U.S.C. § 1915(e)(2),¹ the Court has reviewed the action to determine whether it should be dismissed for failing both to indicate a basis for federal jurisdiction and to state a cognizable cause of action. The Court concludes that this action must be dismissed.

Ms. Goss alleges that Dr. Mandel discriminated against her on the basis of her disability, otherwise violated various civil and human rights, committed torts, and breached contractual

¹ Section 1915, Title 28, provides in relevant part:

§ 1915 proceedings in forma pauperis

- (e)(2) Notwithstanding any filing fee, or any portion thereof, that may have been paid, the court shall dismiss the case at any time if the court determines that -
- (B) the action or appeal –
- (i) is frivolous or malicious;
 - (ii) fails to state a claim on which relief may be granted

obligations. Her complaint tells the story of her efforts to obtain treatment for her service dog, Shadow, from 2000 to 2002. Ms. Goss claims that Dr. Mandel misled her about the services he could provide, kept funds he was not entitled to, failed to provide treatment, and otherwise exploited her, presumably because of her disability. It is indeed a very sad story, and the ultimate loss of Shadow was tragic.

Nevertheless, there is no basis for a federal law suit. The residency and monetary requirements for a diversity action are not met. See 28 U.S.C. § 1332 (requiring the amount in controversy to exceed \$75,000 and the action to be between citizens of different States). Nor is there any cognizable disability discrimination or other civil rights claim. The undeniable fact that Ms. Goss is disabled does not render her every dispute a cause of action for discrimination. There is no fair, rationale basis for construing Ms. Goss's complaint against Dr. Mandel, even taken as true for our purposes, as stating a legally actionable failure to accommodate or any other recognized violation of any federal statute.

Ms. Goss purports to be acting upon the advice of the FBI that she should file a federal civil action. If she received such advice, that in no way reflects the government's support of her claim, and, of course, is irrelevant to the Court's analysis of the complaint.

It would an inappropriate use of judicial resources to allow this case to proceed beyond the pleading stage. It would also be unfair to the parties. Ms. Goss should not be encouraged to believe that she has a viable claim. And Dr. Mandel should not remain a defendant in an unsustainable suit. The Court notes that Dr. Mandel has already expended considerable time in submitting a detailed response to the complaint. The Court notes that the response is a thorough, dispassionate, and reasonable rendition of the circumstances giving rise to this case, supported by

documentation, and painting a very different picture from that portrayed in the complaint. While the Court's ruling does not take the defendant's response into consideration in dismissing the case, the Court does encourage Ms. Goss to take it into consideration in examining whether she was truly fair to Dr. Mandel in suing him.

Accordingly, pursuant to 28 U.S.C. § 1915, the Court, sua sponte, dismisses plaintiff's complaint and, for the same reasons, denies her motion for appointment of counsel [**Doc. # 5**]. The Clerk is directed to close this file.

SO ORDERED, this 19th day of September, 2005, at Bridgeport, Connecticut.

/s/ William I. Garfinkel
WILLIAM I. GARFINKEL,
United States Magistrate Judge